

Town Board Minutes

Meeting No. 9

Regular Meeting

March 3, 2003

Town Board Minutes

March 3, 2003

Meeting No. 9

A Regular Meeting of the Town Board of the Town of Lancaster, Erie County, New York, was held at the Town Hall at 21 Central Avenue, Lancaster, New York on the 3rd day of March 2003 at 8:00 P.M. and there were

PRESENT: MARK MONTOUR, COUNCIL MEMBER
RONALD RUFFINO, COUNCIL MEMBER
DONNA STEMPIAK, COUNCIL MEMBER
ROBERT GIZA, SUPERVISOR

ABSENT: RICHARD ZARBO, COUNCIL MEMBER

ALSO PRESENT: JOHANNA COLEMAN, TOWN CLERK
ROBERT LABENSKI, TOWN ENGINEER
RICHARD SHERWOOD, TOWN ATTORNEY
JEFFREY SIMME, BUILDING INSPECTOR
GARY STOLDT, CHIEF OF POLICE
CHRISTINE FUSCO, ASSESSOR
TERRENCE McCRACKEN, GENERAL CREW CHIEF
MARY ANN PERRELLO, DEPUTY TOWN CLERK

PERSONS ADDRESSING TOWN BOARD:

Mazurowski, John, 11 Stephens Court, spoke to the Town Board on the following matter:

- Feels that in an economically tight year, and in light of the 12.8% tax rate increase, the educational trip to the Association of Towns meeting by Town employees was not necessary.

Gull, Henry, 710 Pavement Road, spoke to the Town Board on the following matters:

- Feels that the prices for some items in the Village Streetscape Revitalization are too high.
- Comments about the Seneca Nation's consideration of Transit Road site for Casino. Raised questions about wetlands and gross revenues.
- Questions about Garden Place Hotel parking lot.

Juszcak, Joseph, 600 Pleasant View Drive, spoke to the Town Board on the following matters:

- Questioned why he has not received a reply to a letter he sent to investigating committee dated 1/2/03.
- Claims that the previous Police Chief has performed private law practice during Town business hours.

Symer, Donald, 610 Columbia Avenue, spoke to the Town Board on the following matters:

- Comments and questions regarding withdrawn resolution #5 to appoint Clough Harbor to review Pleasant Meadows rezone matter. He feels that this a project which requires professional review and that we need to monitor credentials of professionals.
- Comments about Adelphia Cable franchise fees.
- Pointed out that the Buffalo News stated incorrectly that the Zoning Board will meet on Wednesday, March 5, 2003 at 7:30 when it is actually the Planning Board that will meet at that time.

PRESENTATION OF PREFILED RESOLUTIONS BY COUNCIL MEMBERS:

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER RUFFINO, TO WIT:

RESOLVED, that the minutes of the Regular Meeting of the Town Board
held February 24, 2003 be and are hereby approved.

The question of the adoption of the foregoing resolution was duly put to a vote
on roll call which resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
COUNCIL MEMBER ZARBO	WAS ABSENT
SUPERVISOR GIZA	VOTED YES

March 3, 2003

File: RMIN (P2)

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER STEMPIAK, TO WIT:

WHEREAS, a vacancy exists in the position of Town Historian.

NOW, THEREFORE, BE IT

RESOLVED, that Dr. Harley E. Scott is appointed as Town Historian of the Town
of Lancaster for 2003.

The question of the adoption of the following resolution was duly put to a vote on
roll call which resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
COUNCIL MEMBER ZARBO	WAS ABSENT
SUPERVISOR GIZA	VOTED YES

March 3, 2003

file: rpers\rpers.gen

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER MONTOUR, TO WIT:

WHEREAS, in 2002 estimates of revenues generated by the State Wireless Service Surcharge projected approximately \$60 million, and

WHEREAS, in 2002-03 New York State will distribute \$20 million from the State Wireless Service Surcharge which is 33% of the total surcharge collected annually, and

WHEREAS, that amount will be reduced to \$10 million for state fiscal years 2003-04 and 2004-05, and

WHEREAS, the current legislation only authorizes distribution of these funds through 2005, and

WHEREAS, in 2002 New York State raised the wireless service surcharge to \$1.20 on all wireless telephones with the intent of improving public safety communications throughout New York State, and

WHEREAS, this increase will result in a 70% increase in wireless surcharge revenues amounting to over \$100 million annually.

NOW, THEREFORE, BE IT

RESOLVED, that the ten Western New York counties (Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, and Wyoming) that comprise the Western Region Public Safety Communications Alliance, and their cities, towns and villages included therein, call upon New York State and our representatives to support maintaining the 2002 distribution percentage of 33% of the total surcharge collected, and

BE IT FURTHER

RESOLVED, that the Western Region Public Safety Communications Alliance calls on New York State and our representatives to make permanent the 33% of the wireless surcharge received being returned to local governments to offset costs associated with upgrading, operating and maintaining wireless public safety answering points and dispatching of public safety providers in response to wireless 911 calls, and

BE IT FURTHER

RESOLVED, that the counties in the Western Region Public Safety Communications Alliance, and the cities, towns and villages who support this resolution shall forward copies of this resolution to Governor George E. Pataki, the New York State Legislature and all others deemed necessary and proper.

The question of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
COUNCIL MEMBER ZARBO	WAS ABSENT
COUNCIL MEMBER GIZA	VOTED YES

March 3, 2003

File: nrc\table\dcd\ca\dsharenysw\reflessurcharge303

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER RUFFINO, TO WIT:

WHEREAS, the Redskins Junior Football and Cheerleading League has requested that the Town Board permit the Junior Redskins to construct a storage building at the Town owned Keysa Park at no cost to the Town of Lancaster, and

WHEREAS, the Town Board has given due review and consideration to the request made by the Redskins Junior Football and Cheerleading League and deems it in the public interest to permit the Junior Redskins to construct a storage facility within the Town owned Keysa Park which shall inure to the exclusive use of the Redskins Junior Football and Cheerleading League for so long as that entity exists.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Lancaster hereby authorizes the Redskins Junior Football and Cheerleading League to construct a building in the Town owned Keysa Park at no cost to the Town of Lancaster with such facility incurring to the exclusive use and occupancy of the Redskins Junior Football and Cheerleading League for so long as that group exists, and

BE IT FURTHER

RESOLVED, that the Supervisor of the Town of Lancaster is authorized to enter into an agreement between the Town of Lancaster and the Redskins Junior Football and Cheerleading League regarding the construction and use of the beforementioned facility.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
COUNCIL MEMBER ZARBO	WAS ABSENT
SUPERVISOR GIZA	VOTED YES

March 3, 2003

PREFILED RESOLUTION NO. 5 - MEETING OF 3/3/03

Stempniak/ _____

Authorize Agreement Clough Harbor & Associates LLP Re:
Professional services For Review Of SEQRA Environmental
Impact Statement For Pleasant Meadows Subdivision

At the request of Council Member Stempniak, this resolution was withdrawn for further study.

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER RUFFINO, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER MONTOUR, TO WIT:

WHEREAS, the Village of Lancaster has planned for and bonded the cost of improvements known as the Central Avenue Streetscape revitalization project in the Village of Lancaster, and

WHEREAS, the Village of Lancaster has requested that the Town of Lancaster agree to incur the expense of improvement outside of the right-of-way to the front of Town Hall at 21 Central Avenue said area to be known as the Lancaster Opera House/Town Hall Plaza and to meet its obligation to provide for bridge repairs on bridges within the Village of Lancaster and in this case being a bridge crossing Plum Bottom Creek on Central Avenue which will be the subject of certain improvements as a part of the renovation of the streetscape by the Village on Central Avenue, and

WHEREAS, the Town Board has reviewed the request of the Village and recognizes an obligation to address the cost of the improvements on the bridge on Central Avenue crossing Plum Bottom Creek and further deems it in the public interest to also contribute to the cost of the improvements to be made by the Village to the area referred to as the Lancaster Opera House/Town Hall Plaza, said contribution from the Town to be committed to a written Article 5-G GML Agreement with the Village.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Lancaster hereby authorizes the Supervisor of the Town of Lancaster to enter into an agreement with the Village of Lancaster which agreement will provide for a contribution to be made by the Town to the Village on the project being contracted for by the Village which involves the renovation and improvements known as the Central Avenue Streetscape revitalization with the Town's contribution to be limited to the cost and expense of the improvements to be made to the area again referred to as the Lancaster Opera House/Town Hall Plaza at the front of the Town Hall and also the bridge improvements on Central Avenue crossing Plum Bottom Creek with the agreement to provide that the Town may pay for the cost of these improvements over a period of ten years or as otherwise permitted by law or as the Town otherwise deems appropriate in regard to the bridge crossing and as permitted by law.

The question of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
COUNCIL MEMBER ZARBO	WAS ABSENT
COUNCIL MEMBER GIZA	VOTED YES

March 3, 2003

File: rlancasterstreetscape303

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER STEMPIAK, TO WIT:

WHEREAS, it has become necessary to rescind the resolution adopted on February 10, 2003 which abolished the position of Highway Maintenance Clerk , effective March 1, 2003 and created the position of Clerk Typist, effective February 17, 2003, and

NOW, THEREFORE, BE IT

RESOLVED, as follows:

Section 1: That the resolution adopted February 10, 2003 abolishing the position of Highway Maintenance Clerk, effective March 1, 2003 and creating the position of Clerk Typist in the Highway Department of the Town of Lancaster, effective February 17, 2003 be rescinded.

Section 2: That the position of Highway Maintenance Clerk be abolished in the Highway Department, effective March 15, 2003.

Section 3: That one (1) additional position of Clerk Typist be created to be used in the Highway Department, effective March 3, 2003.

Section: 4: That the Supervisor of the Town of Lancaster take the necessary action with the Personnel Officer of the County of Erie to accomplish the foregoing.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
COUNCIL MEMBER ZARBO	WAS ABSENT
SUPERVISOR GIZA	VOTED YES

March 3, 2003

file: rpers\pers ere (P15)

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER STEMPIAK, TO WIT:

WHEREAS, the Highway Superintendent of the Town of Lancaster, by letter dated February 24, 2003, has recommended the appointment of Michelle Barbaro, to the position of Clerk Typist, in the Highway Department of the Town of Lancaster to replace Arlene Zipp, Highway Maintenance Clerk, who is retiring.

NOW, THEREFORE, BE IT

RESOLVED, that Michelle Barbaro, 577 Erie Street, Lancaster, New York 14086 be and is hereby appointed to the position of Clerk Typist in the Highway Department of the Town of Lancaster, effective March 3, 2003 and that the salary for this position will be \$32,381, as set forth in the Schedule of Salaries adopted by the Town Board on January 6, 2003 with full benefits.

BE IT FURTHER

RESOLVED, that the Supervisor of the Town of Lancaster take the necessary action with the Personnel Officer of the County of Erie to accomplish the foregoing.

The question of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
COUNCIL MEMBER ZARBO	WAS ABSENT
SUPERVISOR GIZA	VOTED YES

March 3, 2003

File: RPEKS APP (P15)

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER RUFFINO. TO WIT:

WHEREAS, New York State Electric and Gas (NYSEG) has requested that the Town grant an easement to NYSEG to provide electric service to the pump station at South Penora Street which is being constructed as a cooperative project between the Town and the Erie County Water Authority, and

WHEREAS, the Town Board has reviewed the request of NYSEG and deems it in the public interest to authorize the Supervisor to execute an easement running from the Town to NYSEG to provide electric service to the beforementioned pump station.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Lancaster hereby authorizes the Supervisor of the Town of Lancaster to execute an easement running from the Town to NYSEG for the purpose of providing electric service to the pump station which is presently under construction at South Penora Street as a part of the Town of Lancaster Consolidated Water District.

The question of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
COUNCIL MEMBER ZARBO	WAS ABSENT
COUNCIL MEMBER GIZA	VOTED YES

March 3, 2003

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER STEMPIAK. TO WIT:

WHEREAS, the U.S. Environmental Protection Agency (EPA), as mandated by the Federal Clean Water Act, has developed a nation-wide stormwater permitting program under the National Pollutant Discharge Elimination System (NPDES) which is administered in the State of New York by the designated issuing authority, to wit: the New York State Department of Environmental Conservation, and

WHEREAS, the Town of Lancaster has been identified as a small municipal storm water system which will require a general permit for discharges, and

WHEREAS, there is a need to file a notice of intent with the New York State Department of Environmental Conservation by the Town of Lancaster for coverage under a State Pollutant Discharge Elimination System (SPDES) general permit for storm water discharge from the municipality, and

WHEREAS, the Town Board has given due review and consideration to the requirements of the law and deems it appropriate to authorize the Supervisor to sign a notice of intent and file same with the New York State Department of Conservation.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Lancaster hereby authorizes the Supervisor of the Town of Lancaster to execute the notice of intent for coverage under an SPDES general permit for storm water discharge for the Town of Lancaster to conform with the requirements of the U.S. Environmental Protection Agency as mandated by the Federal Clean Waters Act and that the notice of intent thereafter be forwarded to the appropriate official at the New York State Department of Environmental Conservation.

The question of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
COUNCIL MEMBER ZARBO	WAS ABSENT
COUNCIL MEMBER GIZA	VOTED YES

March 3, 2003

File: rstormwaterpermittingprogram303

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO MOVED ITS
ADOPTION, SECONDED BY COUNCIL
MEMBER MONTOUR, TO WIT:

RESOLVED, that the following Audited Claims be and are hereby ordered paid
from their respective accounts as per abstract to be filed in the Office of the Town Clerk by the
Director of Administration and Finance, to wit:

Claim No. 1010 to Claim No. 1128 Inclusive
Total amount hereby authorized to be paid: \$41,374.03

The question of the foregoing resolution was duly put to a vote on roll call which
resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
COUNCIL MEMBER ZARBO	WAS ABSENT
SUPERVISOR GIZA	VOTED YES

March 3, 2003

File: Relains

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER STEMPNIAK, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER MONTOUR, TO WIT:

RESOLVED that the following Building Permit applications be and are hereby
reaffirmed:

CODES:

(SW) = Sidewalks as required by Chapter 12-1B. of the Code of the Town Lancaster are
waived for this permit.

(CSW) = Conditional sidewalk waiver.

(V/L) = Village of Lancaster

NEW PERMITS:

10205	Marrano/Marc Equity Inc	35 Summerfield Dr	Er. Dwlg.-Sin.	
10206	Essex Homes of WNY	20 Fox Trace	Er. Dwlg.-Sin.	
10207	Village Fireplace & Stove	11 Sturm St	Er. Fireplace	(V/L)
10208	Genesec Transit Pediatric	4845 Transit Rd	Er. Sign-Temp	

BE IT FURTHER

RESOLVED, that the Building Permit Applications herein coded (SW) for
sidewalk waiver be and are hereby reaffirmed with a waiver of the Town Ordinance requirement
for sidewalks, and

BE IT FURTHER

RESOLVED, that the Building Permit Applications herein coded (CSW) for
conditional sidewalk waiver be and are hereby reaffirmed with a waiver of the Town Ordinance
required for sidewalks, however, the waiver is granted upon the expressed condition that the
Town of Lancaster, at any future date, reserves the right to order sidewalk installation at the
expense of the property owner.

The question of the adoption of the following resolution was duly put to a vote on
roll call which resulted as follows

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
COUNCIL MEMBER ZARBO	WAS ABSENT
SUPERVISOR GIZA	VOTED YES

March 3, 2003

File: Rbldg2

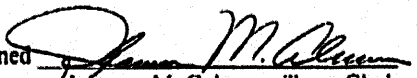
COMMUNICATIONS & REPORTS:

113. Village of Lancaster to Town Board -
Official minutes of meeting held February 11, 2003. DISPOSITION = Received and Filed
114. Village of Lancaster to Town Board -
Official minutes of meeting held February 10, 2003. DISPOSITION = Received and Filed
115. NYS DOT to Town Attorney -
Notification of Lead Agency Designation to the Town of Lancaster regarding Buffalo Lancaster Airport, Runway Reconstruction; comments noted. DISPOSITION = Planning Committee
116. NYS DOT to Town Clerk -
Notice of acceptance of replacement culverts on Routes 33 and 20. DISPOSITION = Received and Filed
117. Highway Superintendent to Town Board -
Request appointment of Michele Barbaro as Clerk Typist. DISPOSITION = Resolution 3/3/03
118. Highway Superintendent to Town Board -
Request extension of resignation date of Arlene Zipp to March 15, 2003. DISPOSITION = Received and Filed
119. Arlene Zipp to Town Board -
Request extension of resignation date to March 15, 2003. DISPOSITION = Resolution 3/3/03
120. Town Clerk to Zoning Board Members, Building Inspector, Town Attorney -
Legal Notice setting Public Hearing to be held on March 13, 2003 regarding variance petition for 54 William Kidder Road. DISPOSITION = Received and Filed
121. General Crew Chief to Planning Board Chairman, Planning Board Members, Council Members Montour, Ruffino, & Stempniak -
Recommendations regarding site plans for Try-It Distributing Company, Cross Creek Subdivision and Summerfield Farms, Phase III. DISPOSITION = Planning Committee
122. Erie County Executive to Supervisor -
Request resolution regarding Wireless Surcharge Fund. DISPOSITION = Resolution 3/3/03
123. Michael D. Haynes to Town Board -
Comments regarding proposed reconstruction of Transit Road. DISPOSITION = Planning Committee
124. Clerk, Erie County Legislature to Town Board -
Transmittal of resolution adopted by the Erie County Legislature regarding construction of waterfront parkway. DISPOSITION = Received and Filed
125. NYSEG to Supervisor -
Request for easement on South Penora Street for the Erie County Pumping Station. DISPOSITION = Resolution 3/3/03

ADJOURNMENT:

ON MOTION OF COUNCIL MEMBER RUFFINO AND SECONDED BY COUNCIL MEMBER
MONTOUR FOR ADJOURNMENT OF THE MEETING, on roll, which resulted as follows:

COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
COUNCIL MEMBER ZARBO	WAS ABSENT
SUPERVISOR GIZA	VOTED YES

Signed 
Johanna M. Coleman, Town Clerk

The meeting was adjourned at 9:02 P.M.